

1 Stephen M. Doniger (SBN 179314)  
2 stephen@donigerlawfirm.com  
3 Benjamin F. Tookey (SBN 330508)  
4 btookey@donigerlawfirm.com  
5 DONIGER/BURROUGHS  
6 603 Rose Avenue  
7 Venice California 90291  
8 Telephone: (310) 590-1820

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10 Attorneys for Plaintiff

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**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**

15 AUGUST IMAGE, LLC, a New York  
16 Limited Liability Company,

17 Plaintiff,

18 v.

19 THE BOLDEN COMPANY, LLC, d/b/a  
20 “BOLDENUSA,” a Texas Limited Liability  
21 Company; and DOES 1 through 10,

22 Defendants.

23 Case No.:

24 PLAINTIFF’S COMPLAINT  
25 FOR COPYRIGHT INFRINGEMENT

26 Jury Trial Demanded

August Image, LLC, by and through its undersigned attorneys, hereby prays to this honorable Court for relief based on the following:

## **JURISDICTION AND VENUE**

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101 *et seq.*
  2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338 (a) and (b).
  3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

## PARTIES

4. Plaintiff August Image, LLC (“AUGUST”) is a New York limited liability company with its principal place of business located at 793 Broadway, New York, NY 10003. August, a full-service rights managed collection, represents an elite group of portrait, lifestyle, beauty, and fashion photographers for editorial and commercial licensing. As the exclusive publisher, administrator, and syndicator of the photographs at issue in this case and the copyrights therein, August is entitled to institute and maintain this action under 17 U.S.C. § 501(b).

5. Plaintiff is informed and believes and thereon alleges that Defendant The Bolden Company, LLC d/b/a “BoldenUSA” (“BoldenUSA”) is a limited liability company organized and existing under the laws of the state of Texas with its principal place of business located at 1336 Franklin Wind Place, El Paso, Texas 79912, and is doing business in and with the state of California, including by contracting with authorized vendors located within this District (<https://www.boldenusacom/pages/store-locator> last accessed on Apr. 2, 2024). BoldenUSA is the owner, operator, and/or controller of its Instagram account at <https://www.instagram.com/boldenusacom/> (“BoldenUSA’s Website”).

6. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff's copyrights, have contributed to the infringement of Plaintiff's copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when same have been ascertained.

7. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and/or adopted each of the acts or conduct alleged, with full knowledge of all the facts and circumstances, including, but not limited to, full knowledge of each violation of Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

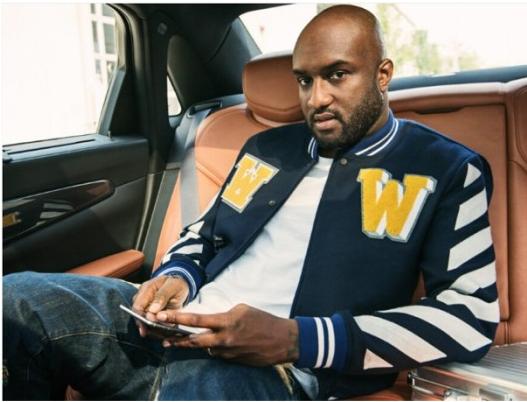
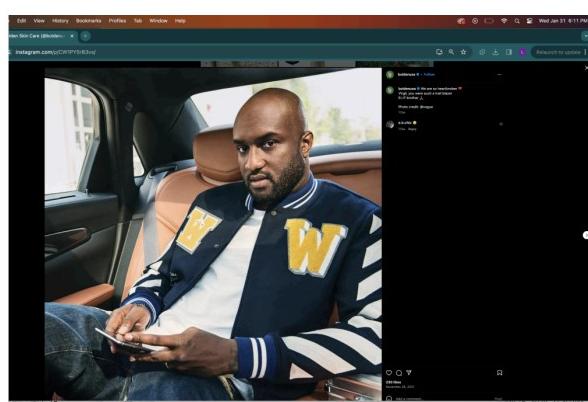
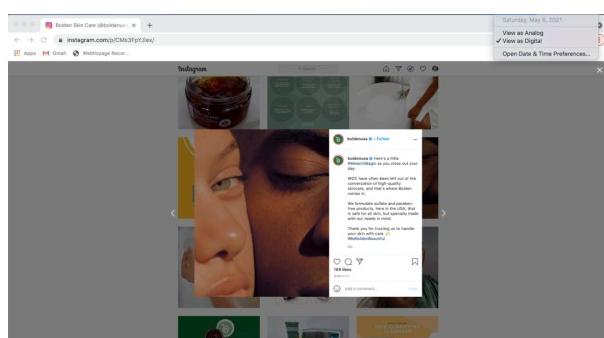
## **CLAIMS RELATED TO THE SUBJECT PHOTOGRAPHS**

8. By virtue of contractual assignment with the photographer, August is the sole and exclusive agent and representative for the licensing and use of two original photographs (and the copyrights therein) registered with the U.S. Copyright Office (collectively, the “Subject Photographs”). Pursuant to that assignment, August has full and complete authority to pursue the unauthorized use of said images and standing to bring this action under 17 U.S.C. § 501(b).

9. Plaintiff is informed and believes and thereon alleges that following its publication and display of the Subject Photographs, BOLDENUSA, DOE Defendants, and each of them used the Subject Photographs without Plaintiff's authorization for commercial purposes in various ways, including, but not limited to,

1 the use on BoldenUSA's Website without a license or consent from August  
 2 (collectively, the "Accused Posts").

3 10. Screen captures of said uses are set forth hereinbelow:

#	Subject Photographs	Accused Posts
1	 AU1993152.JPG VA 2-198-311	
2	 AU260597.JPG VA 2-205-482	

11. To the extent BoldenUSA exploited the Accused Posts (and/or any/all other copies of the Subject Photographs) on BoldenUSA's Website more than three years before the filing of this case, August did not know, and had no reason to know, of such exploitation(s).

## **FIRST CLAIM FOR RELIEF**

(For Copyright Infringement - Against All Defendants, and Each)

12. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.

13. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Photographs, including, without limitation, through Plaintiff's website and social media accounts or viewing the Subject Photographs on third-party websites (e.g., Tumblr, Pinterest, etc.).

14. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, used and distributed images of the Subject Photographs, and exploited said images in multiple website posts without Plaintiff's authorization or consent.

15. Due to Defendants', and each of their, acts of infringement, Plaintiff has suffered damages in an amount to be established at trial.

16. Due to Defendants', and each of their, acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained profits they would not otherwise have realized but for their infringement of the Subject Photographs. As such, Plaintiff is entitled to disgorgement of Defendants', and each of their, profits attributable to the infringement of the Subject Photographs in an amount to be established at trial.

17. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed copyright infringement with actual or constructive

1 knowledge of Plaintiff's rights such that said acts of copyright infringement were,  
2 and continue to be, willful, intentional and malicious.

3 **PRAYER FOR RELIEF**

4 Wherefore, Plaintiff prays for judgment as follows:

- 5 a. That Defendants—each of them—and their respective agents and  
6 servants be enjoined from importing, manufacturing, distributing,  
7 offering for sale, selling or otherwise trafficking in any product that  
8 infringes Plaintiff's copyrights in the Subject Photographs;
- 9 b. That Plaintiff be awarded all profits of Defendants, and each of them,  
10 plus all losses of Plaintiff, the exact sum to be proven at the time of trial,  
11 or, if elected before final judgment, statutory damages as available under  
12 the Copyright Act, 17 U.S.C. § 101 et seq.;
- 13 c. That Plaintiff be awarded its attorneys' fees as available under the  
14 Copyright Act U.S.C. § 101 et seq.;
- 15 d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- 16 e. That Plaintiff be awarded the costs of this action; and
- 17 f. That Plaintiff be awarded such further legal and equitable relief as the  
18 Court deems proper.

19 **JURY DEMAND**

20 Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P.  
21 38 and the 7th Amendment to the United States Constitution.

22 Dated: April 8, 2024

DONIGER/BURROUGHS

23  
24 By: /s/ Stephen M. Doniger  
25 Stephen M. Doniger, Esq.  
26 Benjamin F. Tookey, Esq.  
27 Attorneys for Plaintiff